IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO. 2586 OF 2004

G.L. Badlani ... Petitioner

Vs.

Oriental Bank of Commerce ... Respondent

Mr. Mohan Bir Singh for Petitioner.

Mr. D. Toor i/by S.S. Aradhye for Respondents.

**CORAM: F.I. REBELLO &**
**MRS.V.K.TAHILRAMANI,JJ.**
**DATE : 06TH JULY, 2006**

P.C.:

. The Petitioner who is an employee of the nationalized Bank has approached this court in respect of the chargesheet issued to him. On behalf of the Petitioner, the learned counsel mainly contends that in the criminal proceedings filed being Special Case No. 79 of 1998, he was given a clean acquittal. We have perused the judgment of the learned Court. We find from the body of the judgement that in Paragraph 6 and 7, the learned court proceeded on the footing that the state action is bad on its very threshold for impleading of a wrong person like accused No. 2 and not impleading right person - Vijay Samai. The state through CBI pressed its plea repeatedly, for examining more witnesses, the court rejected the same as of no consequences as evidence is to be ’weighed" and not "counted". The plea by C.B.I. for examining more

witnesses was declined. In other words, there were still other witnesses to be examined. It is only in a case where charges are the same, witnesses are also same and the case is of clean acquittal, had the Apex Court taken a view that it will not be open to the employer to continue with the departmental enquiry. In this case, considering the judgment of the special court, we are of the opinion that this is not a case of clean acquittal and it is open to the respondent employer if advised to proceed with the enquiry.

. It is next contended that the chargesheet was served even before the reply to the show cause notice was considered. Reliance is placed in the judgment of the Apex Court in the case of State of Punjab Vs. V.K. Khanna and Ors. AIR 2001 S.C. 343. Our attention is invited to head notes (E) and (F). At the highest in the instant case, what is pointed out is that there is a procedural infirmity. The Petitioner will have to point out that because of that, he has suffered prejudice on account of failure of the respondent employer to follow the procedure. The very fact that the enquiry is being proceeded with, indicates that the Employer was not satisfied with the reply of Petitioner.

. In the instant case, it will be open to the

Petitioner to lead all evidence available to him in the enquiry. Considering the above, we are not inclined to interfere in exercise of our extra ordinary jurisdiction. Petition rejected.

**(MRS.V.K.TAHILRAMANI,J.)** **(F.I.REBELLO, J.)**